UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

UNITED STATES OF AMERICA,	§	
	§	
Plaintiff,	§	
VS.	§	CIVIL ACTION NO. C-05-315
	§	
MATILDE R CRUZ, JR.,	§	
	§	
Defendant.	§	

MEMORANDUM AND RECOMMENDATION TO DISMISS

The United States filed this action on June 25, 2005, against defendant Cruz to collect

on defaulted student loans (D.E. 1). The defendant was personally served with a copy of the

summons and complaint September 9, 2005 (D.E. 3). No request for entry of default was made,

and on December 7, 2005, plaintiff was ordered to show cause, within twenty days, why this

case should not be dismissed for want of prosecution. To date no response to the show cause

order has been entered; in fact there has been no activity in the case at all. Plaintiff appears to

have abandoned its interest in pursuing the case.

Accordingly, it is respectfully recommended that this lawsuit be dismissed without

prejudice for failure to prosecute. Fed. R. Civ. P. 41(b).

Respectfully submitted this 3rd day of January, 2006.

B. JANICE ELLINGTON
UNITED STATES MAGISTRATE JUDGE

NOTICE TO PARTIES

The Clerk will file this Memorandum and Recommendation and transmit a copy to each party or counsel. Within **TEN (10) DAYS** after being served with a copy of the Memorandum and Recommendation, a party may file with the Clerk and serve on the United States Magistrate Judge and all parties, written objections, pursuant to Fed. R. Civ. P. 72(b), 28 U.S.C. § 636(b)(1)(C) and Article IV, General Order No. 80-5, United States District Court for the Southern District of Texas.

A party's failure to file written objections to the proposed findings, conclusions, and recommendation in a magistrate judge's report and recommendation within TEN (10) DAYS after being served with a copy shall bar that party, except upon grounds of *plain error,* from attacking on appeal the unobjected-to proposed factual findings and legal conclusions accepted by the district court. Douglass v. United Services Auto Ass'n, 79 F.3d 1415 (5th Cir. 1996) (en banc).